

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2071 of 2019

Radha ... Petitioner/wife of the detenue

Vs

1. State of Tamil Nadu
Rep.by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai 600 009.
2. The Commissioner of Police
Greater Chennai. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records relating to the detention order passed by the second respondent pertaining to the order made in Memo.No.551/BCDFGISSSV/2019 dated 29.08.2019 in detain the detenue under 2 (b) of Tamil Nadu Act 14 of 1982, as a Drug Offender and quash the same and direct the respondent to produce the detenue Vivekanandan, S/o.Palanivel aged about 30 years who is detained at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.O.Chembulingam

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

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O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the wife of the detenu viz., Vivekanandan, S/o.Palanivel, aged 30 years, who has been branded as a 'Drug Offender' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in Memo No.551/BCDFGISSSV/2019 dated 29.08.2019.

2. The alleged ground case has been registered against the detenu in Crime No.638 of 2019 on the file of K-11 C.M.B.I. Police Station for offences u/s.8(c) r/w 20(b) (ii)

(B) of NDPS Act 1985. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Though several grounds have been raised in the Habeas Corpus Petition, learned counsel for petitioner would mainly focus his argument on the ground that the arrest of the detenu has been intimated through SMS. In support of his contention, learned counsel invited the attention of this Court to Page No.40 the Booklet - Arrest Intimation Form, wherein it has been mentioned 'SMS SENT THROUGH 9047377410', which would vitiate the detention.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. In the light of the fact that proper procedure has not been followed in intimating the arrest of the detenu to his blood relatives, we have no hesitation in quashing the order of detention.

7. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Vivekanandan, S/o.Palanivel, in Memo No.551/BCDFGISSSV/2019 dated 29.08.2019 is quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

dpq

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
(Goondas Section), Vepery,
Chennai - 600007.

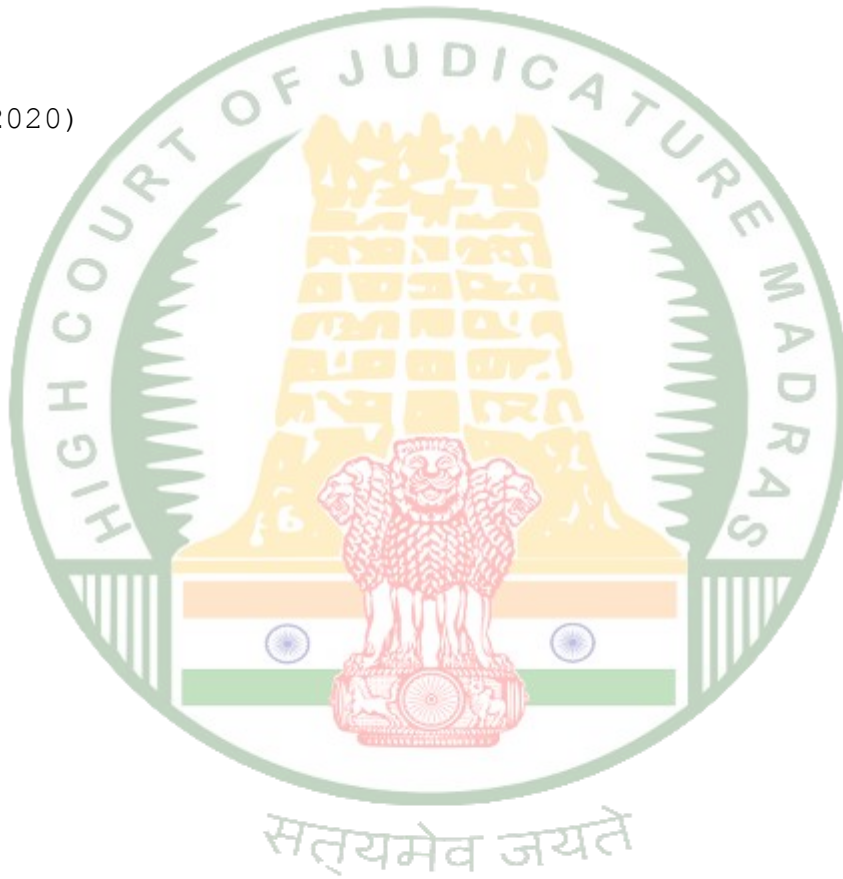
3.The Superintendent of Central Prison,
Puzhal, Chennai.

4.The Public Prosecutor,
High Court, Madras.

5. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, chennai 9

H.C.P.No.2071 of 2019

SJ(CO)
GN(27/02/2020)



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